IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 31 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE D.N.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DISTRICT COLLECTOR
Versus
ARVINDKUMAR MATHURDAS KARIA

Appearance:
1. Special Criminal Application No. 31 of 2003
PUBLIC PROSECUTOR for Petitioner No. 1-2
MR DM THAKKAR for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE D.N.PATEL

Date of decision: 19/01/2005

ORAL JUDGEMENT

1. The present petition has been preferred against the judgment and order passed by the Sessions Court,

Junagadh dated 2nd February 2002 in Criminal Appeal No.6 of 2002, whereby the order of confiscation passed by the Collector, Junagadh district under Section 6-A of the Essential Commodities Act, 1955, dated 29th December 2001 was modified to the effect that instead of confiscation of 65% of the quantity of groundnut seeds, it shall be 20% of the total quantity.

2. Learned APP mainly submitted that the order passed by the Collector, Junagadh district of confiscation of 65% of groundnut seeds, which comes to 1042 kg., valued at Rs.20,840, was absolutely true and correct and in consonance with the facts and law. A well reasoned order was passed by the Collector, Junagadh district dated 29th December 2001 under Section 6-A of the Essential Commodities Act, 1955. The said order was challenged by the respondent (original appellant) before the Sessions Court, Junagadh vide Criminal Appeal No.6 of 2002 and the Sessions Court, Junagadh, without assigning any reason and without pointing out any error on the part of the Collector, has reduced the percentage of confiscation from 65% to 20%. No reasons have been assigned by the Sessions Court, Junagadh. Infact, looking to the facts and circumstances, the order of confiscation by 65% of the groundnut seeds was absolutely justified and without assigning any reason, the said quantity of confiscation has been reduced by the Sessions Court, Junagadh from 65% to 20%. The said order of the Sessions Court, Junagadh is a non-speaking order and, therefore, the same deserves to be quashed and set aside. It is submitted by the learned APP that the matter may be remanded to the Sessions Court for the early disposal of the case on merits and a direction may be given to the lower appellant Court to dispose of the Criminal Appeal No.6 of 2002 within time bound schedule.

3. I have heard the counsel appearing for the respondent. Looking to the order, he has also submitted that the reasons have not been given, but the fact remains that the order of confiscation by 65% of the total quantity is excessively exorbitant. None the less, when this Court has asked him to argue out the matter on merits, he submitted that if the case is remanded to the Sessions Court, Junagadh, it can be argued effectively before the appellate forum by reading statements of the witnesses and the Panchnama and other material on record. Therefore, the matter may kindly be remanded to the Sessions Court, Junagadh with a direction to the Court to dispose of the Criminal Appeal as early as possible and practicably.

4. I have perused the order of seizure, order of confiscation passed by the Collector, Junagadh district dated 29th December 2001 and the order passed by the Sessions Court, Junagadh dated 2nd February 2002 in Criminal Appeal No.6 of 2002. No reasons have been assigned by the Sessions Court, Junagadh for reduction of the quantity of confiscation. The percentage of confiscation has been reduced from 65% to 20% without assigning any reason. Though the learned APP has taken this Court, to the fine nicety of seizure order, order of confiscation and other material on record, but as this Court is remanding the matter to the Sessions Court, Junagadh, it is not necessary for this Court to go into rest of the details of the matter.

5. In view of the aforesaid facts, the order passed by the Sessions Court, Junagadh dated 2nd February 2002 in Criminal Appeal No.6 of 2002 is hereby quashed and set aside, as no reasons have been assigned or no error, in order passed by the Collector, Junagadh district is pointed out for reduction of percentage of confiscation of goods from 65% to 20%. Infact, as held by Hon'ble the Apex Court in Notified Area Committee Vs. Additional Director, Consolidation and Ors., reported in (2002) 10 SCC 87:

> "reasons are the flesh and blood of judicial adjudication and such reasons must be shown in the order which are liable to be challenged in the superior Court."

The Sessions Court, Junagadh is directed to decide the Criminal Appeal afresh. The matter is remanded for its early disposal. The Sessions Court, Junagadh shall decide the Criminal Appeal as early as possible and practicable, preferably within six months from the date of receipt of the writ of this Court. Rule is made absolute with no order as to costs.

(D.N.Patel, J.)
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